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7
8 **IN THE UNITED STATES BANKRUPTCY COURT**
9
10 **FOR THE DISTRICT OF ARIZONA**

11 In Re:

12 Michael Ervin Warren and Carol Anne
13 Warren,

14 Debtor.

15 _____
16 Wells Fargo Bank, N.A.,

17 Movant,

18 vs.

19 Michael Ervin Warren and Carol Anne
20 Warren, Debtors; and Lawrence J.
21 Warfield, Trustee,

22 Respondents.

23 Case No. 2-09-bk-21736-RTBP

24 Chapter 7

25 **MOTION TO SET ASIDE ORDER**
26 **GRANTING STAY RELIEF**

27 **[Emergency Telephonic Oral Argument
28 Requested]**

29 Re: Real Property located
30 at 1726 Saw Mill Rd
31 Cottonwood, AZ 86326

32
33 Debtors, by and through undersigned counsel, hereby this Motion to Set Aside Order
34
35 Granting Stay Relief that has recently been entered in the above-captioned matter. At the
36 preliminary hearing on December 14, 2009, the Court granted Movant's motion for stay relief
37 based on the representation of Movant's counsel the Debtors' loan modification had been
38 denied. Debtors have subsequently been informed by Wells Fargo that their loan modification

1 remains active and is under review. Undersigned counsel has also personally spoken with a
2 representative of Wells Fargo and confirmed that Debtors' loan modification remains active and
3 is under review. Wells Fargo is processing a request for written verification of the loan
4 modification status.

5 During the hearing, the Court explicitly stated that stay relief was being granted based on
6 counsel's representation that Wells Fargo had denied the Debtors' loan modification. Inasmuch
7 as this was not accurate, good cause exists to set aside the Order granting stay relief and
8 continue the preliminary hearing. Because a Trustee's Sale is currently set to take place on
9 January 12, 2010, Debtors respectfully request that an emergency oral argument be set on this
10 Motion prior to that date.

11 Based on the foregoing, Debtors respectfully requests that their Motion to Set Aside
12 Order Granting Stay Relief be granted.

13 DATED this 22nd day of December, 2009.

14 GORDON & GORDON, P.L.L.C.

15 /s/ Michael J. Gordon
16 Michael J. Gordon
17 Attorneys for Debtors

1 Original filed this 22nd day
2 of December, 2009 with:

3 United States Bankruptcy Court
4 230 N. First Ave., Ste 204
5 Phoenix, AZ 85003-1706

6
7 Copies of the foregoing
8 were mailed this 22nd day
of December, 2009 to:

9 Leonard J. McDonald
10 Tiffany & Bosco PA
11 2525 East Camelback Rd, Ste 300
12 Phoenix, AZ 85016
13 Attorneys for Wells Fargo

14 Bankruptcy Trustee
15 Lawrence J. Warfield
16 PO Box 14647
17 Scottsdale, AZ 85267

18 /s/ Michael J. Gordon